

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 699 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

SHRI RAMESHCHANDRA S DAVE

Versus

DISTRICT PRIMARY EDUCATION

Appearance:

MR RR VAKIL for Petitioner

MR JM BAROT for MR HS MUNSHAW for Respondent No. 1

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 01/11/1999

ORAL JUDGEMENT

1. Having heard the learned counsel for the parties,
I am satisfied that this petition deserves to be allowed.

2. It is not in dispute that in response to the advertisement for the post of Headmaster in the Ashram Shala dated 14th May, 1976, the petitioner was interviewed on 3rd June, 1976 and on his selection under the order dated 7th June, 1976 he was given the

appointment. If we go by the date of appointment order certainly the petitioner has crossed the age of 28 years but if we go by the other facts i.e. the date of advertisement inviting the applications for the said post and the last date of receipt of applications, the petitioner was below 28 years. These facts are not in dispute. Otherwise also, from the document annexure 'I' at page No.30 I find that the interviews were held on 3rd June, 1976. So naturally the last date of receipt of applications was earlier to 3rd June, 1976.

3. Taking into consideration the totality of the facts of this case, the decision of the respondent not to allow the application of the petitioner for his lien in the District Primary Education Committee, Mahesana is wholly perverse and it cannot be allowed to stand.

4. As a result of the aforesaid discussion, this petition succeeds and the respondent - District Primary Education Committee, Mahesana is directed to reconsider the case of the petitioner by treating him within age limit in his appointment as Headmaster in Ashram Shala. The respondent- District Primary Education Committee is directed to pay Rs.2000/- as costs of this petition to the petitioner.

5. As the original papers are not placed and reconstructed file is there wherefrom it is not clear whether this matter was admitted or not and on inquiry, the special civil application department is also unable to say whether this matter is admitted or not, this matter be taken to be an admitted matter and accordingly Rule is made absolute in the aforesaid terms.

6. Office is directed to see that in the computer, it has to be mentioned that this matter is decided on reconstructed file because earlier I have seen that though the matter is placed on reconstructed file and has been decided when the original file is traced out it is placed in the court and court has also decided the same. To avoid this confusion and possible mischief this has to be made clear in the computer data/record.

zgs/-